

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION**

OLIVIA Y., by and through her next friend, James D. Johnson; JAMISON J., by and through his next friend, Clara Lewis; DESIREE, RENEE, TYSON, and MONIQUE P., by and through their next friend, Sylvia Forster; JOHN A., by and through his next friend, James D. Johnson; CODY B., by and through his next friend, Sharon Scott; MARY, TOM, MATTHEW, and DANA W., by and through their next friend, Zelatra W.; AND SAM H., by and through his next friend, Yvette Bullock; on their own behalf and behalf of all others similarly situated,

Plaintiffs,

CIVIL ACTION NO.
3:04-CV-251-TSL-FKB

v.

PHIL BRYANT, as Governor of the State of Mississippi;
DONALD TAYLOR, as Executive Director of the
Department of Human Services; AND BILLY MANGOLD,
as Director of the Division of Family and Children's
Services,

Defendants.

**PLAINTIFFS' MOTION FOR LEAVE TO AMEND
PENDING MOTION FOR RELIEF PURSUANT TO REMEDY PHASE OF
PLAINTIFFS' RENEWED MOTION FOR CONTEMPT, FOR AN
EVIDENTIARY HEARING AND FOR THE APPOINTMENT OF A RECEIVER**

Plaintiffs respectfully move this Court for the entry of an Order granting Plaintiffs leave to supplement their pending Motion for Relief Pursuant to Remedy Phase of Plaintiffs' Renewed Motion for Contempt, For an Evidentiary Hearing and for the Appointment of a Receiver ("Renewed Motion").

Plaintiffs further request that the Court allow Plaintiffs' principal memorandum in support of the aforementioned Motion and rebuttal memorandum to exceed the thirty-five page limitation provided in rule 7(b)(5) of the Uniform Local Rules for the Northern and Southern

Districts of Mississippi. Plaintiffs respectfully request that the combined page limit for their principal and rebuttal memorandums be extended to sixty pages.

In support of their motion, the Plaintiffs state the following:

1. Plaintiffs brought their Renewed Motion on May 31, 2018, pursuant to Federal Rule of Civil Procedure 70(e), the Stipulated Third Remedial Order [Dkt. 713] (“STRO”), and the 2nd Modified Mississippi Settlement Agreement and Reform Plan [Dkt. 712] (“2nd MSA”).
2. This Court issued an Order on January 17, 2019, holding Plaintiffs’ aforementioned Motion in abeyance until the parties have received and had an opportunity to review Public Catalyst’s report.
3. This Court’s January 17, 2019 Order directed parties to request leave to update and/or supplement the pending motions within twenty days of receipt of Public Catalyst’s report.
4. Public Catalyst provided their report, Progress of the Mississippi Department of Child Protection Services Monitoring Report for Period 6 [Dkt. 845] (“Period 6 Report”), to the Court on June 11, 2019, in accordance with § 9.5 of the 2nd MSA and Reform Plan entered December 19, 2016. (Attached hereto as **Exhibit 1**).
5. The Period 6 Report produced by Public Catalyst contains previously unavailable information about Defendants largescale failure to comply with the 2nd MSA, which bears on Plaintiffs’ pending Renewed Motion and which warrants a significant expansion of this motion. Plaintiffs had no way to obtain the information prior to the issuance of the Period 6 Report, which documents significant instances of non-

- compliance, Defendants' widespread failure to maintain and report any relevant data, and instances in which Defendants' data was inaccurate and unable to be validated.
6. Plaintiffs have attached their Proposed Amended Motion for Relief Pursuant to Remedy Phase of Plaintiffs' Renewed Motion for Contempt, For an Evidentiary Hearing, and for the Appointment of a Receiver hereto as **Exhibit 2**.
 7. For the reasons stated in this motion, as well as the reasons provided in the accompanying affirmation of Marcia Robinson Lowry, the Plaintiffs request that the Court grant their motion and enter an Order granting leave to amend their pending Renewed Motion for Contempt.
 8. Plaintiffs also request that this Court grant such other and further relief as this Court deems necessary and proper.

RESPECTFULLY SUBMITTED, this the 20th day of June 2019.

/s/ Marcia Robinson Lowry
Marcia Robinson Lowry (pro hac vice)
A Better Childhood, Inc.
355 Lexington Avenue, Floor 16
New York, New York 10017
Telephone (646) 808-7344
Email: mlowry@abetterchildhood.org

Wayne Drinkwater, Jr. (MBN 6193)
Michael J. Bentley (MBN 102631)
BRADLEY ARANT BOULT CUMMINGS LLP
One Jackson Place, Suite 400
188 East Capitol Street
Jackson, Mississippi 39201
Telephone: (601) 948-8000
Facsimile: (601) 948-3000
Email: wdrinkwater@bradley.com
mbentley@bradley.com

CERTIFICATE OF SERVICE

I hereby certify that on June 20, 2019, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will deliver copies to all counsel of record.

/s/ Marcia Robinson Lowry
Marcia Robinson Lowry (*pro hac vice*)